

DOCKET FILE COPY ORIGINAL

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SEP 22 2003

FCC - MAILROOM

September 17, 2003

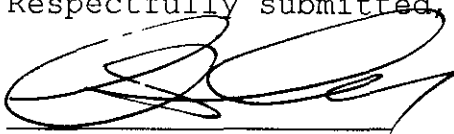
Ms. Marlene Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
12<sup>th</sup> Street Lobby - TW - A325  
Washington, D.C. 20554

Re: Petition for Rule Making  
Weatherford & Blanchard, Oklahoma (03-181)  
Counterproposal

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of my  
counterproposal for MB Docket No. 03-181, Weatherford &  
Blanchard, Oklahoma.

Respectfully submitted,



Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077 Tele  
(214) 443-9308 Fax

014  
DATE

WithCover

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To: John Karousos, Assistant Chief  
Audio Division of the  
Media Bureau

As demonstrated in the attached channel study, this proposal conflicts with the NPRM proposal to allot Channel 247A to Blanchard, Oklahoma. However, the Commission should favor the counterproposal over the Blanchard proposal. The Blanchard NPRM is proposing the first local service to the community of Blanchard, Oklahoma, a well

served community receiving 12 FM reception services.

Whereas, the counterproposal is providing for the first local service to the community of Elmore City, Oklahoma, an under served community with only 1 FM reception service.

Elmore City, Oklahoma is an incorporated community with a population of 756 people.<sup>1</sup> Elmore City has its own mayor, its own high school and elementary school, its own police department, its own city office, its own volunteer fire department, post office and a number of local churches. The counterproposal respectfully submits that the public interest would be served by allocating Channel 283A to Elmore City as that community's first local service. The proposed channel 283A will provide additional diversity and an outlet for local self-expression to Elmore City residents and therefore is in the public interest.

In order for Channel 283A to be allotted to Elmore City, Oklahoma, the vacant allotment for Channel 283A at Wynnewood, Oklahoma will need to be replaced with Channel 247A. The proposed use of channel 247A at Wynnewood, Oklahoma provides the conflict with the NPRM. Accordingly, it is properly considered in this proceeding.

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<sup>1</sup> Source: U.S. Census 2000

The proposed changes are as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Elmore City, OK	----	283A
Wynnewood, OK	283A	247A

Attached hereto is a channel study confirming that Channel 283A can be allocated to Elmore City, Oklahoma, consistent with the FCC's FM separation rules provided the necessary changes are made at Wynnewood. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment A)

Reference coordinates for Channel 283A at Elmore City are:

34 34 30 N  
97 30 30 W

In order for Channel 283A to be allotted at Elmore City, Oklahoma, the vacant allotment for Channel 283A at Wynnewood, Oklahoma must be replaced by Channel 247A. Attached hereto is a channel study confirming that Channel 247A can be allocated to Wynnewood, Oklahoma consistent with the FCC's FM separation rules. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment B) Note: Channel 248C at Keller, Texas was dismissed by Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment C)

Reference coordinates for Channel 247A at Wynnewood,  
Oklahoma are:

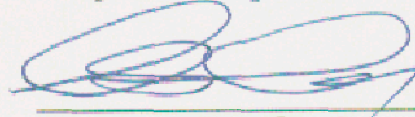
34 36 17 N  
97 03 16 W

The public interest benefits are better served by providing a first local service to the underserved community of Elmore City, Oklahoma, rather than to the well served community of Blanchard, Oklahoma. Additionally, the petitioner for Blanchard does not address the issue of whether moving from 247C1/ Weatherford to 247A/ Blanchard creates new underserved areas or is in fact abandoning currently underserved areas. As an example, it appears that an underserved area will be created at Hobart, Oklahoma with the move of 247C1/ Weatherford to 247A/Blanchard.

Should this counterproposal be granted, and Channel 283A be allotted to Elmore City, Oklahoma, Petitioner will apply for Channel 283A at Elmore City, Oklahoma and after it is authorized, will promptly construct the new facility.

The factual information provided in this Counterproposal is correct and true to the best of my knowledge.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Charles Crawford', is written over a horizontal line.

Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077 Tele  
(214) 443-9308 Fax

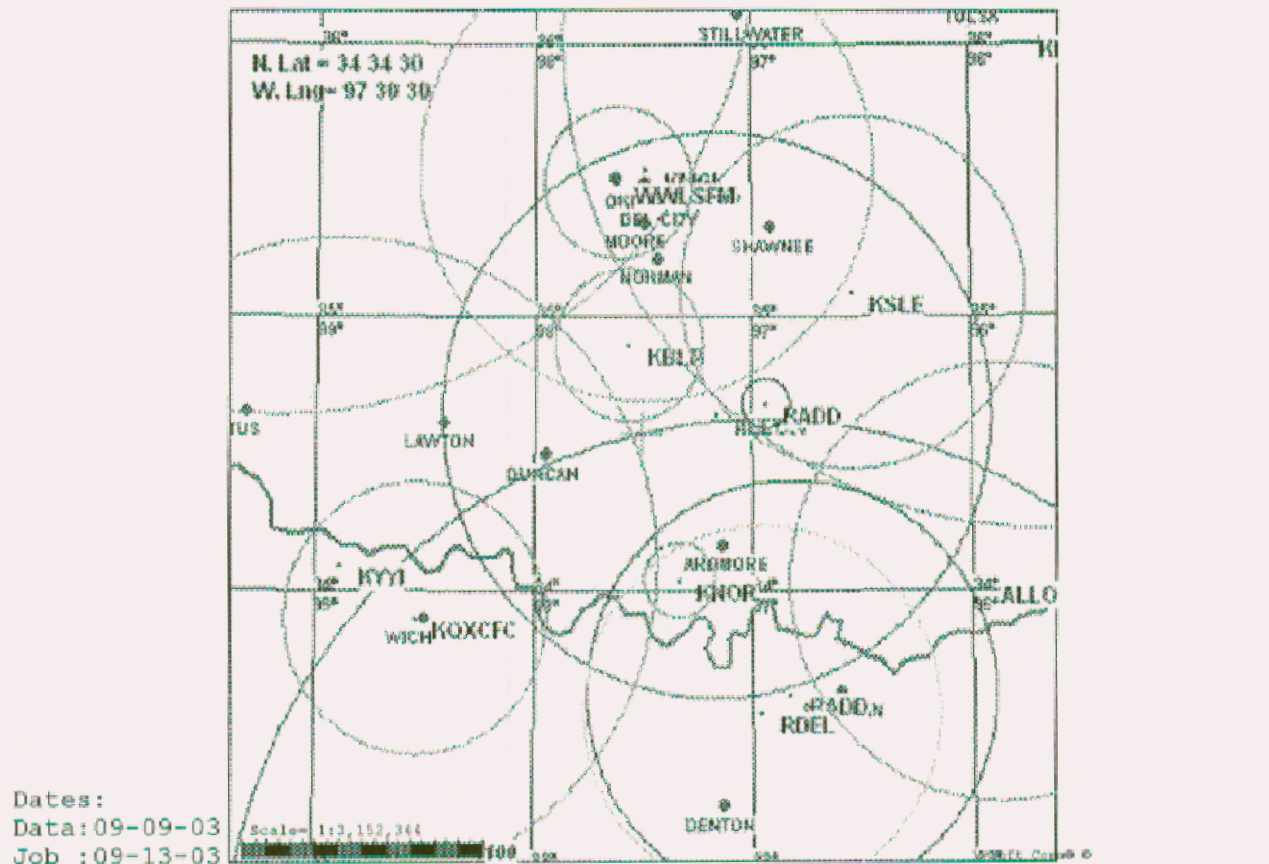
cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite  
600, 1050 17<sup>th</sup> Street, N.W., Washington, D.C. 20036,  
telephone (202) 496-1289, telecopier (301) 762-0156,  
attorney for Charles Crawford. It is requested that the  
Commission and any parties who may file pleadings in the  
captioned matter serve copies to Mr. Bechtel as well as  
Charles Crawford.

September 17, 2003



**Attachment A**

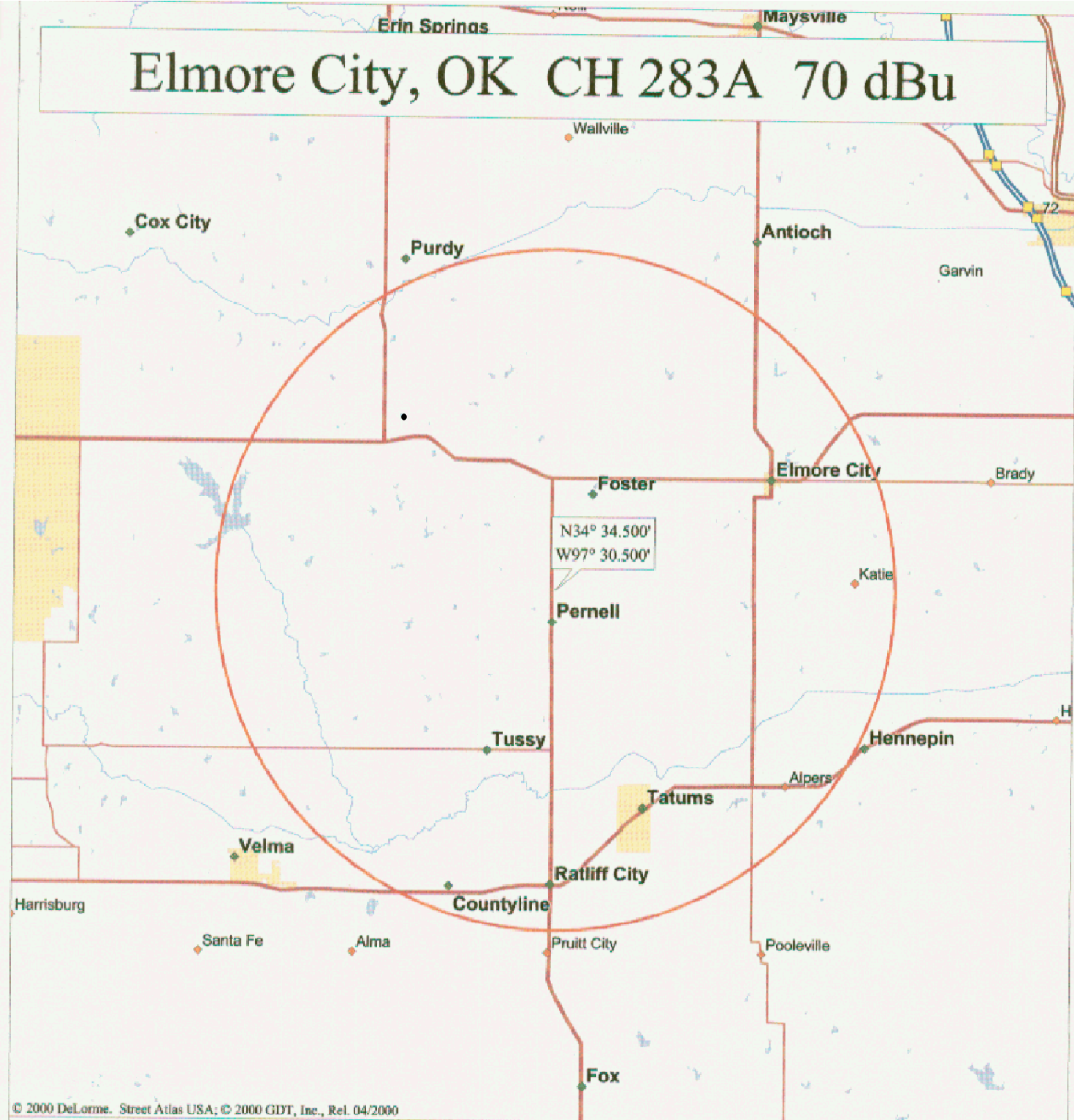
(Channel Study for Channel 283A at Elmore City, Oklahoma)



Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
ALLO.V	283A	VAC	Wynnewood	OK	32.29	75.9	115.0	-82.71
KKDAFM	283C	LIC N	Dallas	TX	225.95	167.1	226.0	-0.05
KYYI	284C1	LIC	Burkburnett	TX	136.99	247.3	133.0	3.99
KBLP	286A	LIC	Lindsay	OK	36.46	351.8	31.0	5.46
KMGL	281C*	LIC	Oklahoma City	OK	108.12	1.0	95.0	13.12
KMYZFM	283C1	LIC	Pryor	OK	232.48	45.8	200.0	32.48
KSLE	284A	LIC N	Wewoka	OK	105.41	56.6	72.0	33.41
RADD	285C0	ADD	Pilot Point	TX	122.59	149.0	86.0	36.59
RADD	285C0	ADD	Pilot Point	TX	122.59	149.0	86.0	36.59
RADD	230A	ADD	Roff	OK	53.45	76.7	10.0	43.45
KNOR	229C2	LIC	Healdton	OK	61.40	164.8	15.0	46.40
KTCY	285C1	LIC N	Pilot Point	TX	123.43	155.7	75.0	48.43
RDEL	285C1	DEL	Pilot Point	TX	123.43	155.7	75.0	48.43
RDEL	285C1	DEL	Pilot View	OK	123.43	155.7	75.0	48.43
ALLO.V	283C1	VAC	Mooreland	OK	257.74	323.9	200.0	57.74
KQXCFC	280C2	CP	Wichita Falls	TX	120.86	232.0	55.0	65.86
WWLSFM	285A	LIC	Bethany	OK	102.90	354.4	31.0	71.90
ALLO.V	282C3	VAC	Boswell	OK	162.70	111.6	89.0	73.70



# Elmore City, OK CH 283A 70 dBu



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Mag 11.00  
Sun Sep 14 17:42 2003  
Scale 1:250,000 (at center)

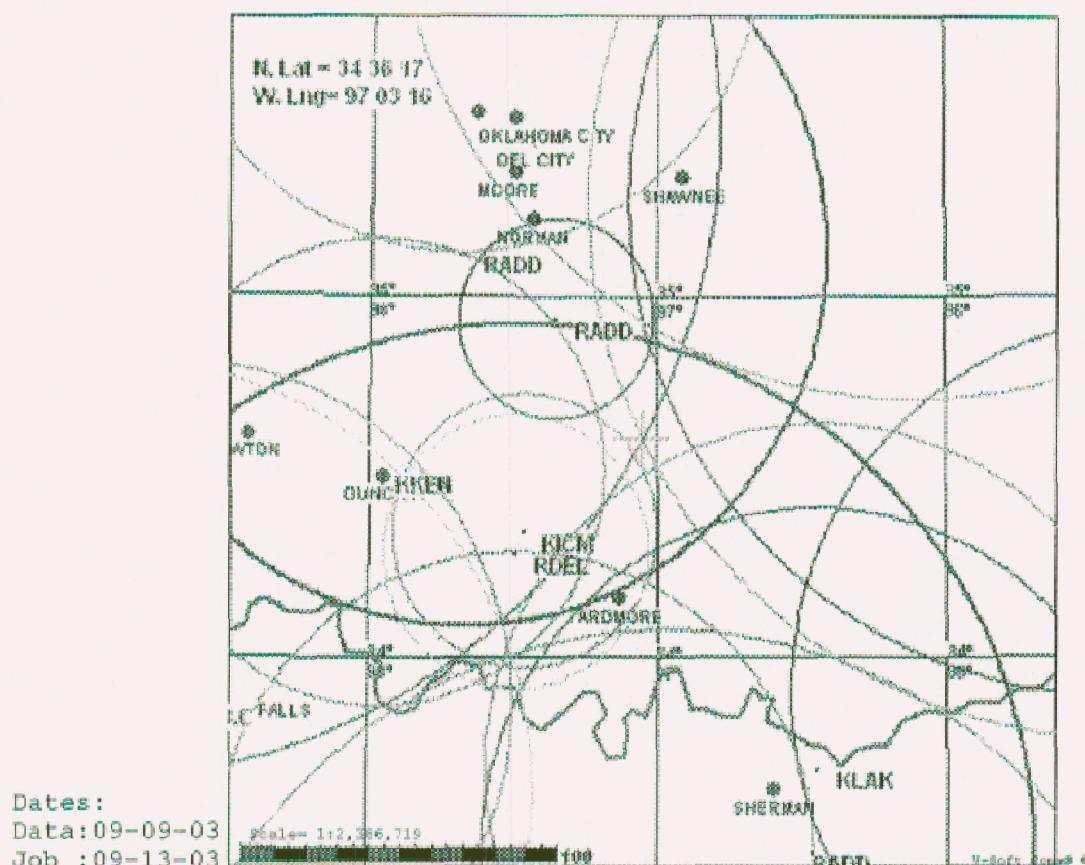
5 Miles  
5 KM

- |  |                           |  |                   |
|--|---------------------------|--|-------------------|
|  | Local Road                |  | Population Center |
|  | Major Connector           |  | Water             |
|  | State Route               |  | River/Canal       |
|  | Interstate/Limited Access |  |                   |
|  | US Highway                |  |                   |
|  | Exit                      |  |                   |
|  | Small Town                |  |                   |
|  | Locale                    |  |                   |

**Attachment B**

(Channel Study for Channel 247A at Wynnewood, Oklahoma)

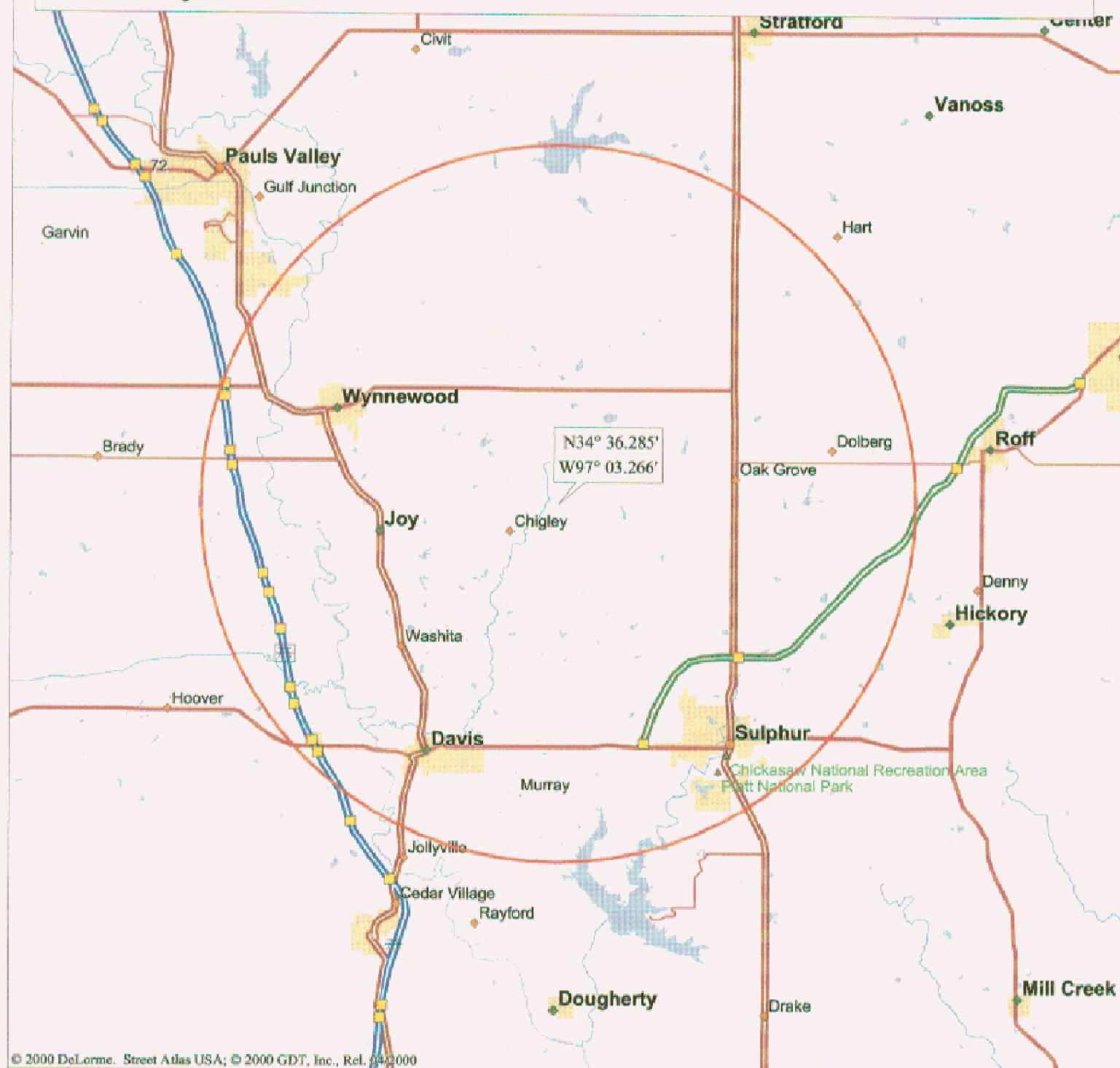




Dates:  
Data:09-09-03  
Job :09-13-03

Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
RADD	247A	ADD	Blanchard	OK	80.53	315.8	115.0	-34.47
RADD	248C	ADD	Keller	TX	135.49	197.1	165.0	-29.51
RADD	248C	ADD	Keller	TX	135.49	197.1	165.0	-29.51
RDEL	247C1	DEL	Weatherford	OK	199.66	298.5	200.0	-0.34
KWEYFM	247C1	LIC	Weatherford	OK	199.66	298.5	200.0	-0.34
RDEL	246C	DEL	Muskogee	OK	165.16	63.3	165.0	0.16
KMMY	246C*	LIC	Muskogee	OK	165.16	63.3	165.0	0.16
KICM	249C3	LIC	Healdton	OK	46.74	232.8	42.0	4.74
RDEL	248C2	DEL	Durant	OK	115.88	150.8	106.0	9.88
RDEL	248C2	DEL	Durant	OK	115.88	150.8	106.0	9.88
KLAK	248C2	LIC	Durant	OK	115.88	150.8	106.0	9.88
RDEL	249C3	DEL	Healdton	OK	53.01	229.0	42.0	11.01
KKEN	246A	LIC	Duncan	OK	84.45	263.2	72.0	12.45
RADD	246C0	ADD	Muskogee	OK	165.16	63.3	152.0	13.16
RADD	249A	ADD	Purcell	OK	45.85	323.6	31.0	14.85
RADD	249A	ADD	Purcell	OK	45.85	323.6	31.0	14.85
KMODEM	248C*	LIC	Tulsa	OK	196.78	25.8	165.0	31.78
RADD	248C2	ADD	Whitewright	TX	138.47	156.4	106.0	32.47
KMEO	244C	LIC	Flower Mound	TX	135.49	197.1	95.0	40.49
KMEO.C	244C	CP	Flower Mound	TX	135.49	197.1	95.0	40.49
KEGL	246C	LIC N	Fort Worth	TX	223.75	177.9	165.0	58.75
KRZB.C	248C2	CP	Archer City	TX	168.39	241.0	106.0	62.39
RADD	247A	ADD	Ft. Towson	OK	180.16	115.4	115.0	65.16
ALLO.R	248C1	RSV	Archer City	TX	199.57	237.1	133.0	66.57
RDEL	248C1	DEL	Archer City	TX	199.57	237.1	133.0	66.57
RDEL	245C	DEL	Enid	OK	163.38	339.4	95.0	68.38
KMMZ	245C*	LIC N	Enid	OK	163.38	339.4	95.0	68.38

# Wynnewood, OK CH 247A 70 dBu



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Mag 11.00  
Sun Sep 14 17:48 2003  
Scale 1:250,000 (at center)

5 Miles

5 KM

- |  |                           |  |                   |
|--|---------------------------|--|-------------------|
|  | Local Road                |  | Exit              |
|  | Major Connector           |  | County Seat       |
|  | State Route               |  | Small Town        |
|  | Rest Area                 |  | Park/Reservation  |
|  | Interstate/Limited Access |  | Locale            |
|  | Toll Highway              |  | Population Center |
|  | US Highway                |  | Water             |
|  | Rest Area with facilities |  | River/Canal       |

**Attachment C**

(Report & Order for MM Docket No. 00-148 dismissing Channel  
248C at Keller, Texas)

Weth



Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	MM Docket No. 00-148
FM Broadcast Stations.	)	RM-9939
(Quannah, Archer City, Converse, Flatonia,	)	RM-10198
Georgetown, Ingram, Keller, Knox City,	)	
Lakeway, Lago Vista, Llano, McQueeney,	)	
Nolanville, San Antonio, Seymour, Waco and	)	
Wellington, Texas, and Ardmore, Durant,	)	
Elk City, Healdton, Lawton and Purcell,	)	
Oklahoma.)		

**REPORT AND ORDER**  
(Proceeding Terminated)

Adopted: May 7, 2003

Released: May 8, 2003

By the Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rule Making* in the captioned proceeding.<sup>1</sup> Nation Wide Radio Stations filed Comments and Reply Comments. First Broadcasting Company, L.P., Rawhide Radio, L.L.C., Next Media Licensing, Inc., Capstar TX Limited Partnership and Clear Channel Broadcast Licenses, Inc. ("Joint Parties") filed a Counterproposal and Reply Comments. Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd. filed Joint Reply Comments. Elgin FM Limited Partnership and Charles Crawford ("Elgin-Crawford") jointly filed Reply Comments and Maurice Salsa filed Reply Comments.<sup>2</sup> For the reasons discussed below, we are dismissing both the initial proposal for Channel 233C3 at Quannah, Texas, and the Counterproposal.

Background

2. At the request of Nation Wide Radio Stations, the *Notice* in this proceeding proposed the allotment of Channel 233C3 to Quannah, Texas.<sup>3</sup> In response to the *Notice*, the Joint Parties filed a Counterproposal involving twenty-two communities in Texas and Oklahoma. In one aspect of this Counterproposal, the Joint Parties propose the substitution of Channel 248C for Channel 248C2 at Durant, Oklahoma, reallocation of Channel 248C to Keller, Texas, and modification of the Station KLAK license to specify operation on Channel 248C at Keller, Texas. In order to accommodate this allotment,

<sup>1</sup> 15 FCC Red 15809 (MM Bur. 2000).

<sup>2</sup> In this proceeding, Texas Grace Communications, Elgin FM Limited Partnership, Charles Crawford, Maurice Salsa, M&M Broadcasters, AM&FM Broadcasters and the Joint Parties have filed additional pleadings. In view of our action dismissing the Joint Parties Counterproposal, it will not be necessary to discuss these pleadings in the context of this *Report and Order* terminating this proceeding.

<sup>3</sup> Nation Wide Radio Stations has withdrawn its expression of interest in this allotment. In accordance with Section 1.420(j) of the Rules, Nationwide Radio Stations states that neither it nor any of its principals have been paid or promised any consideration for the withdrawal of its expression of interest in the Quannah allotment.

the Joint Parties propose three channel substitutions. Included among those substitutions was the substitution of Channel 230C1 for Channel 248C1 at Archer City, Texas, and the modification of the Station KRZB permit to specify operation on Channel 230C1. On the basis of our own engineering review, Joint Reply Comments filed by Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd., and Reply Comments filed by Maurice Salsa, the proposed transmitter site (33-36-58 and 98-51-42) for the Channel 230C1 allotment at Archer City is short-spaced to a prior-filed application filed by AM & FM Broadcasters, LLC, licensee of Station KICM, Channel 229C2, Krum, Texas, to upgrade to Channel 229C1 (File No. BMPH-20000725AAZ) (the "KICM Class C1 Application").

3. Counterproposals that are in conflict with a previously filed application can be considered if the counterproposal is amended to remove the conflict within 15 days from the date the counterproposal appears on public notice.<sup>4</sup> The Note also requires a counterproponent to show that it could not have known by exercising due diligence of the pending conflicting FM application. The Joint Parties and AM & FM Broadcasters submitted Reply Comments addressing this issue. Under the agreement, AM & FM Broadcasters agrees to file an application to downgrade Station KICM to Channel 229C2 in the event its application is granted and the Counterproposal is adopted. Pursuant to the agreement, the Joint Parties would "compensate" AM & FM Broadcasters for the downgrade of Station KICM. On August 20, 2001, the staff granted the KICM Class C1 Application.

#### Discussion

4. We dismiss the Counterproposal because the proposed Archer City Channel 230C1 allotment is short-spaced to the KICM Class C1 construction permit. The Joint Parties have not shown that they could not have known about the then-conflicting KICM Application. Nor have the Joint Parties sought to amend their Counterproposal to protect the proposed Archer City Channel 230C1 allotment.

5. The Commission does not entertain a short-spaced allotment that is contingent on the grant of another application.<sup>5</sup> This is precisely what the Joint Parties seek. The Archer City allotment is short-spaced to the KICM construction permit and contingent on the staff granting future applications by AM & FM Broadcasters for both a Class C2 construction permit and license. We reject Joint Parties argument that its downgrade proposal complies with the contingent application procedures set forth in Section 73.3517(e) of the Commission's Rules. Section 73.3517(e) permits the simultaneous acceptance of contingent *minor change applications*. It does not authorize the filing of contingent rulemaking petitions. Accordingly, the Counterproposal must be dismissed.

#### Alternative Proposals

6. The Joint Parties filed an alternative twelve-allotment proposal in anticipation of a staff determination that the Channel 230C1 Archer City allotment is impermissibly short-spaced to the KICM permit. We reject this alternative. A counterproposal must conflict with the proposal set forth in the *Notice*.<sup>6</sup> In this instance, none of these proposals conflict with Nation Wide Radio Station's initial proposal for a Channel 233C3 allotment at Quanah. As such, we will not bifurcate the Counterproposal or otherwise consider any of these proposals in the context of this proceeding.<sup>7</sup>

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<sup>4</sup> See Note to Section 73.208 of the Rules; see also *Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments*, 8 FCC Rcd 4743 (1993).

<sup>5</sup> See *Oxford and New Albany, Mississippi*, 3 FCC Rcd 615 (MM Bur. 1988), *recon.* 3 FCC Rcd 6626 (MM Bur. 1988); see also *Cut and Shoot, Texas*, 11 FCC Rcd 16383 (MM Bur. 1996).

<sup>6</sup> See *Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Rcd 931, n. 5 (1990).

<sup>7</sup> See also *Broken Arrow and Bixby, Oklahoma, Coffeyville, Kansas*, 3 FCC Rcd 6507 (MM Bur. 1988).



7. In the event that its Counterproposal can not be favorably entertained, the Joint Parties advance two alternative proposals. The staff no longer entertains alternative proposals set forth in counterproposals.<sup>8</sup> In any event, each of these alternatives fails to comply with our rules and procedures. The first proposal involves the proposal to reallocate Channel 248C to Keller, Texas, and modify the Station KLAJ license to specify operation on Channel 248C at Keller. A Channel 248C allotment at Keller requires the substitution of Channel 230C1 at Archer City, and thus, cannot be considered. The second alternative only proposes the substitution of Channel 247C1 for Channel 248C at Waco, Texas, reallocation of Channel 247C1 to Lakeway, Texas, and modification of the Station KWTX license to specify operation on Channel 247C1 at Lakeway. The Joint Parties also proposed related channel substitutions necessary to accommodate this reallocation. However, none of these proposed channel substitutions conflict with the underlying Channel 233C3 allotment at Quanah, Texas, proposed in the *Notice*.

8. Accordingly, IT IS ORDERED, That the aforementioned proposal filed by Nation Wide Radio Stations for a Channel 233C3 allotment at Quanah, Texas, IS DISMISSED.

9. IT IS FURTHER ORDERED, That the aforementioned Counterproposal filed by the Joint Parties IS DISMISSED.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>8</sup> See *Winslow, Camp Verde, Mayer and Sun City West, Arizona*, 16 FCC Rcd 9551 (MM Bur. 2001).

CERTIFICATE OF SERVICE

I, Charles Crawford, do hereby certify that I have on this 17<sup>th</sup> day of September, 2003, caused to be mailed by first class mail, postage prepaid, copies of the foregoing "Counterproposal" to the following:

Ms. Marlene Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
12<sup>th</sup> Street Lobby - TW A325  
Washington, D.C. 20554

John C. Trent  
Putbrese, Hunsaker & Trant, P.C.  
100 Carpenter Drive, Suite 100  
P.O. Box 217  
Sterling, VA 20167-0217  
(counsel for the petitioner)

A handwritten signature in blue ink, appearing to read 'Charles Crawford', is written over a horizontal line.

Charles Crawford